

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	William S. HERZ	Confirmation No.:	6902
Serial No.:	10/727,710	Group Art Unit:	2621
Filed:	December 3, 2003	Examiner:	Daquan ZHAO

For: **APPARATUS AND METHOD FOR PROCESSING AN AUDIO/VIDEO PROGRAM**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action of April 1, 2009, Applicant respectfully requests a review of the rejection of the above-identified patent application. This request is being filed with a Notice of Appeal under 37 C.F.R. 41.31. Consideration of this request prior to the filing of an appeal brief is respectfully requested pursuant to the Pre-Appeal Brief Conference Pilot Program (OG Notices: 12 July 2005).

I. STATUS OF THE CLAIMS

Claims 1-9 are pending, and claims 10-23 are cancelled. Claim 1 is an independent claim, and claims 2-9 are dependent upon claim 1.

Claims 1 and 3-9 are rejected as unpatentable over STURGEON (US 6,064,385), in view of SCHONER (US 6,493,506). Claim 2 is rejected as unpatentable over STURGEON, in view of SCHONER and further in view of DURDEN (US 2004/0261099).

II. ARGUMENT

A. STURGEON and SCHONER fail to teach or suggest the features of independent claim 1

Claim 1 specifies that a first set of presentation settings, as specified by a first user, is coordinated with “a first set of portions of said audio/video program” and with “a first attribute of said first user,” and that a second set of presentation settings, as specified by a second user, is coordinated with “a second set of portions of said audio/video program” and with “a second attribute of said second user.” By coordinating the first set of presentation settings and the second set of presentation settings with respective portions of the audio/video program and with respective attributes of the first user and the second user, subsequent playback of the audio/video program can be customized for the first user and the second user on a fine-grained level, such as when scenes change or characters move. In particular, the first set of presentation settings is retrieved “based on said first attribute of said first user,” and is selectively applied to “said first set of portions of said audio/video program” during subsequent playback of the audio/video program “for said first user,” while the second set of presentation settings is retrieved “based on said second attribute of said second user,” and is selectively applied to “said second set of portions of said audio/video program” during subsequent playback of the audio/video program “for said second user.”

STURGEON fails to teach or suggest the coordination of presentation settings with respective portions of an audio/video program and the selective application of presentation settings to those portions of the audio/video program. STURGEON’s user interface 550 allows the specification of options regarding rating limit 554, audio language 556, subtitle language 558, and video presentation mode 560. *See, e.g.*, STURGEON, FIG. 5B; col. 6, lines 27-31; and

col. 8, lines 51-60. However, these options are presumably global parameters to be applied to a current title as a whole, rather than to particular portions of the current title. Stated in another way, STURGEON fails to teach or suggest functionality to track which presentation setting should be coordinated with (and applied to) which portion of an audio/video program.

SCHONER fails to remedy this deficiency of STURGEON. SCHONER's optical disk system 10 stores viewing and listening preferences pertaining to a particular optical disk or pertaining to a particular user, such as preferences regarding spoken language, video display format, audio volume setting, and subtitle language. *See, e.g.,* SCHONER, FIG. 3; FIG. 4; col. 7, line 58 to col. 8, line 2; col. 8, lines 17-21; and col. 8, lines 24-35. However, like STURGEON, SCHONER's stored preferences (whether pertaining to a particular optical disk or a particular user) are presumably global parameters to be applied to a presentation as a whole, rather than to particular portions of the presentation. Therefore, whether taken alone or in combination, STURGEON and SCHONER fail to teach or suggest functionality to track which presentation setting should be coordinated with (and applied to) which portion of an audio/video program.

B. The remaining reference fails to teach or suggest the features of independent claim 1

The rejection of claim 1 is predicated upon the teachings of STURGEON and SCHONER with respect to the above-described features of the claim. The deficiencies of STURGEON and SCHONER are not remedied by the teachings of DURDEN.

For these reasons, the cited references fail to teach or suggest the subject matter that is defined by claim 1. Therefore, claim 1 and its dependent claims 2-9 are in a condition for allowance.

III. SUMMARY

For the reasons set forth above, the rejection of claims 1-9 is in error. Therefore, all pending claims should be in a condition for allowance.


The Commissioner is hereby authorized to charge any appropriate fees to Deposit Account No. 50-1283.

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Cooley Godward Kronish LLP
ATTN: Patent Group
777 – 6th Street, NW
Suite 1100
Washington, DC 20001

Tel: (650) 843-5852

Respectfully submitted,
COOLEY GODWARD KRONISH LLP

By:



Cliff Z. Liu
Reg. No. 50,834